

FLORIDA UNEMPLOYMENT COMPENSATION EMPLOYER HANDBOOK



**Department of Revenue
General Tax Administration**

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INTRODUCTION

Preface

The Florida Unemployment Compensation Employer Handbook contains information the employer will find useful when complying with the provisions of Florida's Unemployment Compensation Law. This handbook has been prepared to provide a simplified explanation of the taxing procedures and benefit provisions of the law. It is not intended to take precedence over the law and/or rules, or answer all questions. Information on the Florida Unemployment Compensation Law or Rules and answers to specific questions about unemployment tax may be obtained by writing Tax Information Services, 1379 Blountstown Highway, Tallahassee, FL 32304, or by calling the Department of Revenue (DOR) Taxpayer Services at 1-800-482-8293.

Background

In the depression of the 1930s millions of workers lost their jobs and were faced with suffering and hardship. With consumer income dwindling faster and faster, the wheels of business turned slower and slower. The economic structure of America was in crisis. As one of the measures to help prevent such calamities in the future, a nationwide program of Unemployment Insurance and Public Employment Offices was established. Every state now has an unemployment insurance program, provides reemployment services through local One-Stop Career Centers and operates a program for Labor Market Statistics (LMS).

Unemployment Insurance provides temporary income payments to make up part of the wages lost by workers who lose their jobs through no fault of their own, and are able and available for work. It is not a "relief" or "welfare" payment and is not available just for the asking. It is job insurance paid for by a tax on business. The objective is to provide a cushion to absorb some of the shock of unemployment to jobless workers and their families and the business community. This temporary income, plus other resources, helps workers sustain their families when they are without jobs. It also keeps money flowing into Florida businesses as the unemployed workers spend these payments to provide for their needs until they can obtain jobs or the duration of benefits ends. Thus, it helps maintain purchasing power which many consider the key to business prosperity. In this way it promotes economic stability and helps to stave off the downward cycle that leads to depression. Businesses credit this program with playing an important part in lessening the depth and length of economic recessions.

Who Pays?

The Federal Unemployment Tax Act provides for cooperation between state and federal governments in the establishment and administration of the Unemployment Compensation Program. Under this dual system, the employer pays payroll taxes levied by both the state and federal governments.

INTRODUCTION

State Unemployment Tax Act (SUTA)

All unemployment tax payments are deposited to the Unemployment Compensation Trust Fund for the sole purpose of paying benefits to eligible claimants. The employer pays for this Unemployment Compensation Program as a cost of doing business. Workers do not pay any part of the Florida unemployment tax and employers must not make payroll deductions for this purpose. This cost is passed on to consumers in the price of goods or services. Thus, the burden of the economic hazard of unemployment is shared by all. Employers with stable employment records receive credit for this in reduced tax rates after a qualifying period.

Federal Unemployment Tax Act (FUTA)

Federal unemployment taxes are deposited to the FUTA Trust Fund and administered by the United States Department of Labor (USDOL) for funding the administrative costs of state unemployment compensation, One-Stop Career Centers, and part of Labor Market Statistics Programs. The USDOL is also charged with monitoring state Unemployment Compensation Programs and can withhold funds from a state if it does not comply with federal standards.

WHO MUST REPORT WAGES AND PAY UNEMPLOYMENT TAXES

General Liability Requirements

A business is liable for state unemployment tax if, in the current or preceding calendar year, the employer: (1) has paid at least \$1,500 in wages in a calendar quarter; or (2) has had at least one employee for any portion of a day in 20 different calendar weeks in a year; or (3) is liable for the Federal Unemployment Tax as a result of employment in another state.

Special Liability Requirements for Certain Employer Types

Nonprofit Employers

Coverage is extended to employees of nonprofit organizations (such as religious, charitable, scientific, literary, or education groups) that employ 4 or more workers for any portion of a day in 20 different calendar weeks during the current or preceding calendar year. Exceptions to this coverage are churches and church schools. For purposes of the Florida Unemployment Compensation Law, a nonprofit organization is one as defined in Section 3306(c)(8) of the Federal Unemployment Tax Act and Section 501(c)(3) of the Internal Revenue Code.

Governmental Entities

Coverage is also extended to employees of the state of Florida and any city, county or joint governmental unit.

Indian Tribes

Coverage is extended to employees for service performed in the employ of an Indian tribe, as defined by s.3306(u) of the Federal Unemployment Tax Act, provided the service is excluded from employment as defined by that act solely by reason of s.3306(c)(7) of the act and is not otherwise excluded from employment under the Florida Unemployment Compensation Law. For purposes of the Florida Unemployment Compensation Law, the exclusions from employment under s.443.1216(4), F.S. apply to services performed in the employ of an Indian tribe.

Reimbursement Option

Nonprofit organizations, governmental entities, and Indian tribes, have the option of being taxpaying employers or reimbursing employers. A reimbursing employer is one who must pay the Unemployment Compensation Trust Fund on a dollar-for-dollar basis for the benefits paid to its former employees. Wage reports are submitted each quarter and reimbursement charges are paid when billed. The employer electing the taxpaying method must submit quarterly reports with payments on a quarterly basis. To elect a reporting method, the employing unit must complete and sign a special form electing a

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payment method for a minimum two-year period. If the employing unit wishes to change its method of payment, it must make written application no later than December 1st of the second year of reporting, requesting to change methods on January 1st of the subsequent year.

Agricultural Employers

Agricultural employers who, in the current or preceding year, have paid \$10,000 in cash wages in a calendar quarter or who have five or more workers for any portion of a day in 20 different calendar weeks are liable for unemployment tax. Employers who establish liability under this provision must also report, under the same account number, any other employees (except employees who perform domestic services) even if the employment was for less than 20 different weeks or the wages paid were less than \$1,500 in any single quarter.

Employers of Employees Who Perform Domestic Services

Employers of employees who perform domestic services (maids, cooks, maintenance workers, chauffeurs, social secretaries, caretakers, private yacht crews, butlers and house-parents) who, in the current or prior year, have paid \$1,000 in cash wages in any one calendar quarter are liable for unemployment tax. Employers liable under this provision will not report general employees or agricultural employees unless they also establish liability under other provisions of the Law.

Likewise, employers liable for their general employment will not report domestic service or agricultural workers unless they also establish liability in these categories. In making a determination of liability, the wages paid in agricultural employment and in domestic employment must be counted separately from wages paid in other types of employment.

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Following is a chart that illustrates coverage requirements for four different employers (A, B, C, and D). Columns two, three and four list employment for each sample employer and the column on the far right lists the coverage (liability) required.

Coverage Requirements				
Employer Examples	Agricultural Employers	Domestic Employers	General Employers	Subject to Unemployment Tax
	\$10,000 payroll in any quarter or 5 employees for 20 weeks within a calendar year	\$1,000 payroll in any quarter or	\$1,500 payroll in any quarter or 1 employee for 20 weeks within a calendar year	
Employer A	\$5,000 payroll & 5 employees for 10 weeks	\$1,500 payroll	\$1,000 payroll & 1 employee for 4 weeks	Domestic coverage only
Employer B	\$10,000 payroll & 5 employees for 20 weeks	\$2,000 payroll	\$1,500 payroll & 1 employee for 15 weeks	Coverage for all three types of service
Employer C	\$25,000 payroll & 18 employees for 20 weeks	\$500 payroll	\$1,000 payroll & 1 employee for 15 weeks	Agricultural coverage only
Employer D	\$5,000 payroll & 2 employees for 10 weeks	\$200 payroll	\$10,000 payroll & 4 employees for 10 weeks	General coverage only

Voluntary Coverage

Employers who are not otherwise liable under the law may apply for coverage for their employees. Employers liable for one type of employment (general, for example) may elect to cover their employees in other types of employment (agricultural and/or domestic). Election of voluntary coverage obligates an employing unit to be a taxpayer for a minimum of one calendar year. Coverage remains in effect until the employer provides written notice, by April 30th, to terminate coverage for the current year. A form (UCS-2) for election of coverage may be obtained from Taxpayer Services.

Employer-Employee Relationship

Employment means any service performed by an employee for an employing unit.

An **employee** is an individual as defined under the common law rules for employer-employee relationships. An employee is a person who is subject to the will and control of the employer not only as to what shall be done, but how it shall be done.

WHO MUST REPORT WAGES AND PAY UNEMPLOYMENT TAXES

Any **officer of a corporation** performing services for the corporation is an employee of the corporation during their tenure of office, regardless of whether compensation is received. Compensation, other than dividends upon shares of stock and board of director fees, shall be presumed to be payment for services performed.

Any **member of a limited liability company** classified as a corporation for federal income tax purposes who performed services for the limited liability company is an employee of the limited liability company.

Sales personnel are considered covered employees. The fact that a salesperson working for an employer is paid solely by commission does not remove the person from the employer's direction and control. The law provides specific exemption only for real estate agents, insurance agents, and barbers who are paid solely by commission. If they are paid by salary only or by salary and commission, both are taxable and the exemption does not apply.

An **employing unit** is the person, limited liability company, partnership, or corporation for whom service is performed. Common law recognizes a master-servant relationship in the exercise of will and control by the employer over the employees. The employer can direct what services will be performed, when and where they will be performed, and can set standards for the quality of work to be rendered.

In **agricultural labor**, either the farm operator or the crew leader may be considered the employer. An individual must hold a valid certification of registration under the Farm Labor Contractor Registration Act of 1993 to be a crew leader. The crew leader is the employer if he/she (1) provides the crew, (2) supervises the work being performed by the crew, (3) has the right to terminate employment, and (4) is responsible for the payment of wages to the workers.

The **farm operator** is the employer if (1) the individual is an employee of the farm operator under common law rules of master and servant or (2) the worker is furnished by the crew leader, but is not treated as an employee of the crew leader, i.e. the crew leader is acting on behalf of the farm operator, rather than as an employer, or (3) the crew leader has entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator.

An **independent contractor** is one who is not subject to the will and control of the employer. The employer does not have the right to control or direct the manner or method of performance, although the results to be accomplished are controlled. Independent contractors hold themselves out to the public as such. Generally, they furnish materials as well as labor and use their own tools in the performance of the work. Services performed by independent contractors cannot be summarily terminated without recourse. A contract for labor only will normally be considered a contract of employment. How the worker is treated, not a written contract, determines employment status.

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Employment Not Covered

Several types of employment are not covered for unemployment compensation purposes and the workers performing these types of employment are not considered in determining an employer's liability. Some of these exemptions include:

- Services by a sole proprietor or a partner, and effective January 1, 2004, a partner or a member of a limited liability company classified for federal income tax purposes as either a partnership or a sole proprietorship.
- Services by employees of a church or convention or association of churches or of organizations operated for religious purposes and which are operated, supervised, controlled, or principally supported by a church, convention, or association of churches.
- Services of a duly ordained, commissioned, or licensed minister of a church, in the exercise of the ministry or by a member of a religious order, in the exercise of duties required by such an order.
- Services for a school, college, or university, by a student enrolled and attending classes there.
- Services by certain students working for credit on a program combining academic instruction with work experience, such as CBE (Cooperative Business Education) or DCT (Diversified Cooperative Training) students.
- Services performed for a son, daughter, or spouse, including step relationships and by children, or stepchildren, under the age of 21 for their father or mother. When the employing unit is a partnership, an exempt relationship must exist to all partners or there is not an exemption. (For example, a daughter working for a father/mother partnership.) This exemption does not apply to corporations.
- Services performed by insurance agents, real estate agents, or barbers when paid solely by commission.
- Services performed on a fishing vessel that weighs ten net tons or less.
- Services performed as a student nurse in the employ of a hospital or a nurses training school, by an intern in the employ of a hospital, or by a hospital patient.
- Services in a rehabilitation facility for the mentally handicapped, or physically handicapped or injured, by persons receiving such rehabilitative service.
- Services by persons under age 18 in the delivery or distribution of newspapers.
- Services performed by nonresident aliens, who are temporarily present in the United States as non-immigrants under subparagraph (F) or (J) of Section 101(a)(15) of the Immigration and Nationality Act.
- Services performed by aliens in agricultural labor, who have entered the United States pursuant to SS 214(c) and 101(a)(15)(H) of the Immigration and Nationality Act.
- Services performed for the government by elected officials; by members of the legislature; by members of the judiciary; by those serving on a temporary basis in cases of fire, storm, snow, earthquake, flood, or similar emergencies; or by those serving in an advisory capacity.

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- Services by direct sellers who are contracted to sell or solicit consumer goods to homes or any place other than a permanent retail establishment and whose substantial remuneration is directly related to sales.
- Services performed by speech, occupational, and physical therapists that are non-salaried and working pursuant to a written contract with a home health agency as defined in Section 400.462 of the Florida Statutes.
- Services performed by a driver for a private delivery or messenger service if the driver pays all expenses, owns the vehicle and pays all operating costs, is paid by delivery or on commission, is free to accept or reject jobs, determines routes and methods of performance, and has a contract stating the driver is an independent contractor.
- Services performed by inmates of a penal institution.
- Services performed by election officials or election workers who are paid less than \$1,000 in a calendar year.

Inactivation of Account

An employer's account is made inactive when the employer ceases to have payroll and notifies the Department of Revenue (DOR) of the date this occurred. If for eight consecutive calendar quarters, no employment reports are submitted with zero gross wages, the account will automatically be inactivated. If an account is inactive and employment resumes, DOR must be notified, wages paid must be reported and taxes must be paid. An *Application to Collect and/or Report Tax in Florida* (DR-1) must be completed in order to reopen the account.

Termination of Liability

Termination of liability is not the same as inactivating an account. An employer's account is eligible for termination if the liability requirements have not been met for an entire calendar year. In this instance, application for termination of liability must be submitted no later than April 30 of the following year in order to be considered timely. Once an account is officially terminated, liability must be reestablished as described in this handbook. Employers are responsible for submitting quarterly reports until they are officially notified that liability has been terminated.

REQUIRED REPORTS

Employer Registration Report

A new business is required to report its initial employment in the month following the calendar quarter in which employment begins; however, submission of quarterly reports alone is not sufficient to register as an employer. An *Application to Collect and/or Report Tax in Florida* (DR-1) must be completed to provide the necessary information to determine if the employer is liable for the payment of unemployment tax as provided by law. Enrollment can be completed on-line at www.myflorida.com/dor.

When an employer is determined to be subject to unemployment tax, a seven-digit account number will be assigned, such as 0000001. **THIS ACCOUNT NUMBER SHOULD APPEAR ON ALL LETTERS, CHECKS, AND REPORTS TO THE DEPARTMENT.**

If an account is inactive and employment resumes, DOR must be notified, wages paid must be reported, and taxes must be paid. An *Application to Collect and/or Report Tax in Florida* (DR-1) must be completed in order to reopen the account or to have a new account number assigned if the previously assigned number is not available.

Employee Leasing Companies

An employee leasing company maintains the records required by unemployment compensation law for its client companies. The employee leasing company must be licensed by the Department of Business and Professional Regulation. The client companies contract with the employee leasing company to provide workers to perform services for the client. The leased employees are placed on the employee leasing company's payroll on behalf of the client company. The employee leasing company submits the required reports and pays the taxes. The leasing company must notify DOR within 30 days of the initiation or termination of the company's relationship with the client company.

Employee leasing companies must submit a list to DOR which identifies all clients by name, address, industry, and work-site descriptions, and which lists the name and social security number of each leased worker under the appropriate client. The client lists must cover the six-month periods ending June 30 and December 31 of each year. The lists will be considered untimely after August 1 or February 1, respectively.

Common Paymaster

Related corporations with employees performing services simultaneously for the related corporations may apply to DOR for authorization to utilize a common paymaster arrangement. This allows one of the related corporations to report and pay unemployment tax rather than each corporation reporting separately for the period of concurrent employment. Application form (UCS-70) for common paymaster reporting must be received by DOR prior to the first day of the quarter in which common paymaster status is requested. Once the application is approved, the common paymaster

REQUIRED REPORTS

must submit a *Quarterly Common Paymaster Concurrent Employment Report* (UCS-71), along with the quarterly report. Failure to do so will result in the related corporations being denied common paymaster status for that calendar quarter.

The related corporations must meet certain criteria before common paymaster reporting can be considered.

Payrolling

Payrolling is an agreement between employers whereby payrolls for two or more employers are consolidated for tax purposes with one employer reporting the employees of the other(s). Payrolling is not permitted; each employer must file an *Application to Collect and/or Report Tax in Florida* (DR-1) and report its own employees.

Power of Attorney

A power of attorney is necessary for an employer's agent or representative to receive confidential information and to act on behalf of the employer about matters relating to the Florida Unemployment Compensation Program. The power of attorney form must be completed in its entirety and must contain the original signature of the employer as well as the date signed. It is recommended the power of attorney form be notarized or witnessed for the protection of the employer's records.

Submission of a power of attorney does not constitute an address change. Changes of mailing address should be requested by separate written documentation. A power of attorney supersedes and revokes any prior power of attorney submitted regarding the same subject matter for that particular employer.

To acquire the *Power of Attorney for Unemployment Tax* form (UCT-62), please see *Obtaining Forms*.

Memorandum of Understanding (MOU)

The MOU is an agreement between the Department of Revenue and an employer representative, who has 500 or more unemployment tax clients, authorizing the department to release **tax rate information only**. Under the MOU, the representative certifies that it has on file a current Power of Attorney (POA) from the client authorizing the department to release the requested information to the representative and that it will provide the department, immediately upon request, with a copy of the POA.

Tax and Wage Reporting

Where to Report Employees

If the employer has employees working in more than one state, it may be necessary to register as an employer with another state's Employment Security Agency. There are four tests to determine to which state an employee should be reported:

1. Localization of Services
 2. Base of Operations
 3. Place of Direction or Control
 4. Residence
-
1. **Localization of Service** - If all services are performed in Florida, the employees should be reported to Florida. If a majority of the employee's time is for services in Florida, with only occasional or short-term duty in another state, wages should be reported to Florida. Only when services are balanced between two or more states is any other test necessary.
 2. **Base of Operations** - The base of operations is the fixed place or center from which the employee works. The employee would return there to replenish stock, receive employer instructions, receive mail or telephone messages from customers, repair equipment, etc. For example, if services are performed in Florida, Alabama, and Georgia, and the employee's base of operations is in Florida, wages are reportable to Florida. If no services are performed in the state housing the base of operations, the state from which services are controlled should be considered.
 3. **Place of Direction or Control** - The place of direction or control is the state from which the employer's authority is exercised. The company headquarters usually exercises this control rather than a direct supervisor or a foreman stationed in the field. If employer control is from the Florida headquarters, and service is performed only in Florida and Georgia, the employee is reported to Florida, although there is a base of operations or residence in Alabama. If control is from Alabama, and service is in Florida, Georgia and Tennessee, and there is no base of operations, then the employee's residence test should be used.
 4. **Residence** - The residence is what the employee refers to as "home", where the employee actually lives and is registered to vote. For instance, the employee would be reportable to Florida if the place of residence is Florida and services are not performed in Alabama, where the employer is headquartered.

REQUIRED REPORTS

Sometimes a chart will help:

	State A	State B	State C	State D
1. Percentage of service				
2. Base of operations				
3. Employer control				
4. Residence				

Reciprocal Coverage Agreement

The Reciprocal Coverage Agreement (RCA) permits an employer to report all of the services of a worker who customarily performs services on a continuing basis in more than one state, to one selected state. An election to do so may be filed with any jurisdiction (state) in which:

- (a) any part of the individual's services are performed;
- (b) the worker resides; or
- (c) the employer maintains a place of business to which the worker's services bear a reasonable relation.

RCA forms must be initiated by the employer in the state that the employer has selected as the reporting state. If approval is granted by the state of origination, the forms will then be sent to all of the jurisdictions (states) named for their approval. The election will become effective if the originating state and one or more of the named states approve it. In cases where an election is only approved in part, the employer may withdraw the request within ten (10) days of being notified.

This type of election is only applicable to the individuals named in the agreement. The Department must be notified of all individual changes and new approvals negotiated. RCAs are never made as blanket approval. The agreement may be terminated if DOR discovers that there has been a substantial change in the employer's operations or in the actual employees now serving the employer as multi-state workers.

An employer who has employees in other states and does not meet the requirements to establish a Reciprocal Coverage Agreement will be required to report these employees to the other states.

Employer's Quarterly Report (UCT-6)

During the last week of each calendar quarter a preprinted tax and wage report form (UCT-6) is mailed to each liable employer, except employers obligated to file electronically and employers who employ individuals that perform domestic service and have been approved for annual filing.

REQUIRED REPORTS

Failure to receive this reporting form does not relieve employers of the responsibility for filing. Should the form not be received, it may be acquired by contacting the department. For more information, please see *Obtaining Forms*.

The *Employer's Quarterly Report* must be submitted by the end of the month following the calendar quarter for which the report is due:

Payment made by EFT or Internet must be initiated by 5:00 p.m., ET on the business day prior to the payment due date to be considered timely.

CALENDAR QUARTER	REPORT MUST BE POSTMARKED NO LATER THAN
January 1 - March 31	April 30
April 1 - June 30	July 31
July 1 - September 30	October 31
October 1 - December 31	January 31

If a tax due date falls on a Saturday, a Sunday, a legal holiday as defined in s.683.01, F.S., or on a legal holiday of the jurisdiction in which the taxpayer's financial institution is located, the deposit by electronic funds transfer is required on or before the first banking day thereafter. "Banking day" has the meaning prescribed in s.674.104, F.S. If the date on which the taxpayer is required to initiate either an ACH debit or an ACH credit transfer falls on a Saturday, Sunday, or a business or banking holiday, the taxpayer must initiate the transaction on the preceding business day.

The **TAX** portion of the quarterly report is used to record information needed to compute and verify the amount of tax owed by the employer. This information includes total wages paid for covered employment, wages in excess of the taxable limit, and taxable wages.

Some information requested on the tax portion is required by the federal government and is used for statistical purposes, such as the number of all full-time and part-time covered workers who performed services during or received pay for the payroll period including the 12th of the month.

The **WAGE** portion is used to determine eligibility for unemployment compensation benefits when a claim is filed. The employer must list, for all employees, the name, social security number, and total wages paid. Employee information is maintained in the wage record file and is used in the event a claim for benefits is filed.

- **Social Security Numbers** - Incorrect or missing social security numbers can allow wages to be credited to the wrong individual, which could result in payment of benefits to an individual who does not meet the unemployment compensation eligibility requirements.

REQUIRED REPORTS

- **Total Wages Paid** - All remuneration (compensation or payment) for employment, including commissions, bonuses, back pay awards, and the cash value of all remuneration paid in any medium other than cash must be reported. Report total wages for the period in which they were paid, not the period in which they were earned. The amount of benefits available to an eligible claimant is based on total wages paid. Failure to accurately report wages increases the possibility of incorrect benefit payments to an eligible claimant or payment of benefits to an individual who does not meet the unemployment compensation eligibility requirements.

EMPLOYERS MUST SUBMIT A REPORT EVERY QUARTER REGARDLESS OF EMPLOYMENT ACTIVITY. An employer may not have to pay tax for a particular quarter because: (1) there were no employees or (2) all wages were excess wages. Although no tax is due, a report must be filed and the penalty provisions of the law apply if the report is filed late.

Taxable Wage Base

The taxable wage base in Florida is the first \$7,000 in wages paid to each employee during a calendar year.

If an employee works for two or more employers, each of the employers is required to pay tax on the first \$7,000 of wages paid without regard to earnings with any other employer. However, when a business is transferred, the successor employer may count wages paid to an employee by the predecessor employer for purposes of determining the taxable wage base, whether or not a transfer of experience rating record is elected.

FOR EXAMPLE: An employer buys a business April 1st. One of the employees has been paid \$4,000 in the first quarter and will earn \$4,000 in the second quarter. The successor can count the \$4,000 in the first quarter in determining the taxable wage base. Therefore, the successor will only have to pay tax on \$3,000.

On occasion, multi-state employers will have employees who perform services in another state and then transfer to Florida. The employer can take credit for wages reported to another state up to \$7,000, when calculating taxable wages reportable to Florida.

FOR EXAMPLE: An employee earns \$4,000 in the first quarter in the state of New York and then is transferred to Florida. While in Florida, during the second quarter the employee also earns \$4,000. As the employer has already paid tax on wages of \$4,000 to New York, payment would be made on only \$3,000 to Florida, with the balance being excess wages.

A liable employer who also becomes liable for agricultural or domestic employees will report them on the quarterly report as another unit of business. Wages for these employees will be taxable at the same rate assigned to the present account.

REQUIRED REPORTS

FOR EXAMPLE: An employer has three office workers covered by unemployment compensation and has a tax rate of .0120 (1.2%). Effective January 1st, the employer will be liable for eight agricultural workers. The employer will pay .0120 for the quarter beginning January 1st on all employees including the agricultural employees.

Annual Filing Option

Employers of employees performing domestic services have the option to elect to report wages and pay taxes annually, with a due date of January 1 and a delinquency date of February 1. In order to qualify for this election, the employer must employ only employees who perform domestic services, be eligible for a variation from the standard rate, apply to this program no later than December 1 of the preceding calendar year, and agree to provide the Agency for Workforce Innovation or DOR with any special report which might be requested, as required by rule 60BB-2.025(5), Florida Administrative Code, including copies of all federal employment tax forms.

Reporting Wages

As a general rule, if the work promotes, advances, or aids the employer's trade or business and is not performed by a recognized independent contractor, the services are considered to be employment and the wages paid are taxable regardless of the amount of time employed and/or the amount of earnings.

Casual labor is work performed that is not in the course of the employer's regular trade or business and which is occasional, incidental, or irregular. Casual labor should not be confused with temporary or part-time employment. Temporary or part-time employment is taxable, whereas casual labor is not. A corporation cannot have casual labor since all activities for a corporation must be in the course of the corporation's regular trade or business.

When determining whether or not payments constitute wages, and are reportable for unemployment compensation purposes, the common law rules applicable in determining the "employer-employee relationship" apply.

Taxable Wages

- Commissions are taxable, except real estate agents, insurance agents, and barbers paid *solely* by commission. If paid by salary only or by salary and commission, both are taxable and the exemption does not apply.
- Bonuses.
- Back pay awards.
- Cash value of all remuneration paid in any medium other than cash.
- Corporate officers' wages - compensation other than dividends upon shares of stock and board of director fees is presumed payment for services performed.
- Wages of shareholder-employee of S corporation - Also, all or part of the distribution of income paid to a shareholder-employee who is active in the business and performing services for the business may be considered wages.

REQUIRED REPORTS

- Tips, if received while performing services which constitute employment and are included in a written statement furnished to the employer, pursuant to S.6053 (a) of the Internal Revenue Service code.
- Cash value of vacation facilities, club memberships, and tickets to events.
- Financial planning assistance and retirement counseling fees.
- Nonqualified stock bonus incentive plan contributions made by the employer.
- Awards, gifts and prizes over \$25.
- Interest from below market interest rate loans.
- Excess employee discounts.
- Cash value of meals and lodgings not for the employer's convenience.
- Cash value of prepaid group legal services.
- Golden parachute payments.
- After death payments for wages earned through death.
- Wages in the form of insurance coverage plans (paid to insurance agents).
- Cash value of automobile for personal use.
- Cash value of air transportation for personal use.
- Wages of children or stepchildren working for a corporation.
- Wages of children or stepchildren working for a sole proprietor or partnership where no exempt relationship exists.
- Wages paid for temporary or part-time work.
- Wages paid for services performed outside the United States (except in Canada) by a citizen of the U. S. in the employ of an American employer, should be reported as employment if the employer's business or employee's residence is in the U. S.
- Wages paid for services performed in the employ of an Indian tribe.

Exempt Wages

- Wages paid to employees of a church, convention, or association of churches.
- Wages paid to employees of an organization operated for religious purposes, and which is operated, supervised, controlled or principally supported by a church, convention or association of churches.
- Wages paid to a duly ordained, commissioned, or licensed minister of a church, in the exercise of the ministry, or by a member of a religious order, in the exercise of duties required by such an order.
- Wages paid for services for a school, college or university, by a student enrolled and attending classes there.
- Wages paid to students working for credit on a program combining academic instruction with work experience, such as Cooperative Business Education (CBE) or Diversified Cooperative Training (DCT).
- Services performed for a son, daughter, or spouse, including step relationships, or by children, or stepchildren, under the age of 21 for their father or mother. When the employing unit is a partnership, an exempt relationship must extend to all

REQUIRED REPORTS

partners for the exemption to apply. (For example, a daughter working for a father/mother partnership.) This exemption does not apply to corporations.

- Cafeteria Plan payments if they are not reportable to the Internal Revenue Service.
- Educational payments paid to, or on behalf of, an employee if the employer will be able to exclude such payments from income under S.127 of the Internal Revenue Code.

Employer Multiunit Reports

If an employer conducts business in more than one location in Florida, completion of a *Multiple Work-site Report*, form BLS-3020, will be required on a quarterly basis. This form will be mailed separately from the *Employer's Quarterly Report*.

This form lists work-site specific name and address information for each unit on file. The employer must provide the number of covered workers each month and the total quarterly wages for each work-site. The totals on the *Multiple Work-site Report* must agree with totals reported on the *Employer's Quarterly Report*. If work-sites are acquired or sold, this should be noted in the comment section. Any missing name and address information should be completed by the employer.

The employment and wage figures provided on these reports are the primary source for Florida's Labor Market Statistical Programs. The Office of Labor Market Statistics is then able to provide data on the annual average wages and employment in various industries and occupations, which allows computation of the state's rate of insured unemployment. Florida's Workers' Compensation Program uses average annual wages to determine maximum benefit amounts.

The labor market data is also used for determining education, employment, and training choices. Federal and state funds are allocated to workforce development programs based on the data. Therefore, it is important that all employers, including multiple units, have the most accurate industry codes. A complete description of the nature of the business should be provided on the *Application to Collect and/or Report Tax in Florida* (DR-1).

Reporting Medium

Alternative Forms Reporting

Alternative forms reporting is a computer-generated reproduction of the *Employer's Quarterly Report* and other DOR documents. Employer representatives often use software packages to create these required reports. Representatives purchasing software packages from approved vendors **do not** need prior approval to submit reports. However, those representatives creating their own software will need to obtain approval from the alternative forms coordinator prior to submitting forms. Information on alternative forms reporting can be obtained from the DOR web site www.myflorida.com/dor/forms or by contacting the alternative forms coordinator at 850-414-6910.

REQUIRED REPORTS

Electronic Reporting and Payment Requirement

As required under a new state law effective April 1, 2003, employers are required to file their current year unemployment tax reports and remit payments electronically if they employed 10 or more employees in any quarter during the most recent state fiscal year (July through June). In addition any person who prepared and filed unemployment tax reports for one hundred or more employers in any quarter during the most recent state fiscal year (July through June) must also file current year unemployment tax reports by electronic means. The penalty for failing to file by electronic means is \$10 per report and the penalty for failing to remit payment by electronic means is \$10 per submission.

To help taxpayers comply with the law, the Department offers web-based filing options that are safe, convenient and free. To enroll and use the web filing tools, taxpayers should visit the DOR Internet site at www.myflorida.com/dor and look for the Customer Information Bulletin item or "e-Services."

Before you can file and pay by electronic means, you must complete an online Enrollment/Authorization for e-Services on the DOR Internet site.

Reporting by Magnetic Media does not constitute reporting by electronic means.

Adjusting/Amending Reports on File

Adjustments or amendments to quarterly reports already on file should not be made on the current quarterly report. If errors are found in previous reports and adjustments/amendments are necessary, submit a *Correction to Employer's Quarterly Report*, form UCT-8A, or a letter providing the same detailed information required on the UCT-8A. A letter providing the correct information must state the reasons for such adjustments, i.e., incorrect gross wages or the employee should have been reported to another state. An authorized signature is required before an adjustment can be made.

Missing or Incorrect Information

On occasion, a quarterly report will be incomplete. When employment information or wages are omitted, a request will be sent to the employer to obtain the missing information. It is to the employer's advantage to reply immediately, otherwise, penalties may be charged and incorrect or incomplete information could be processed to the employer's account.

New Hire Reporting

Effective October 1, 1998, all employers, regardless of size, are required to report to DOR, all new hires or rehires at the end of the first pay period following employment or reemployment. (S409.2576, F.S.)

For information on New Hire Reporting, call DOR; toll free, at 1-888-854-4791 or 850-656-3343. (The toll free Fax number for New Hire Reporting is 1-888-854-4762 or 850-656-0528.)

WHEN TO NOTIFY THE DEPARTMENT

Submit the *Employer Account Change Form* (UCS-3) provided in the *Employer's Quarterly Report* packet if one or more of the following business activities occur:

- Location change
- Ceasing employment
- Closing the business
- Employee leasing firm, engagement of
- Address change
- Business federal employer identification number, add or change
- Inactivating the business
- Incorporating the business (including professional associations)
- Incorporation change
- Involuntary dissolution by the Secretary of State
- Legal entity change
- Location changes (new ones added or old ones deleted)
- Mailing address change
- Partner or partnership change
- Sell all or part of a business
- Trade name change
- Bankruptcy - A copy of the Petition Notice issued by the court should be mailed to The Department of Revenue, Bankruptcy Section, PO Box 6668, Tallahassee, FL 32314, telephone 850-921-2151 or fax 850-921-3039.
- Common Paymaster, Authorization For - Notify DOR on the *Application for Common Paymaster* (UCS-70) form.
- Power Of Attorney - Notify DOR on the *Power of Attorney for Unemployment Tax* (UCT-62) form.
- Purchase All Or Part Of A Business - Notify DOR on the *Report to Determine Succession and Application for Transfer of Experience Rating Records* (UCS-1S) form.

For information on securing forms, please see *Obtaining Forms*.

FAILURE TO COMPLY

Correct Payment and Timely Filing of Reports Will Reduce Costs

One of the most important ways to save money is to receive credit for timely reporting of taxable wages. Wages which have been reported timely are used in the computation of an employer's tax rate. The more taxable wage credits the employer has, the lower the benefit ratio used in the tax rate computation. The timely reported wage credits are divided into the benefits charged to an employer's account over a prior three-year period. The employer has the sole responsibility of determining whether credit is received for taxable wages by filing reports in a timely manner. Employers with timely payment will also receive credit against FUTA taxes (see *Tax Rate-Federal Certification Section*).

Penalties and Interest Charged

Timely reporting will avoid delinquency charges for late reports and payments. If the quarterly tax is not paid on or before the due date, interest will be charged on the full amount of tax due at the rate of one percent per month. Failure to file reports timely will result in a penalty charge of \$25 per month or fraction of a month as long as the report is delinquent.

For employers who are required to file by electronic means, failure to do so will result in a penalty of \$10 per report. The penalty for failure to submit payment by electronic means is \$10 per remittance submission.

Tax Rate Consequences

Although penalties are assessed for late submission of reports, these penalties are small compared to failure to receive credit for taxable payrolls for tax rate purposes. It is most important to mail quarterly reports and tax payments timely. Completed quarterly reports must be submitted although no tax is due.

Assessments

Failure to submit a report after being given reasonable opportunity to do so will result in an assessment of taxes due. The Department will determine, based on the employer's tax history and other available information, how much tax the employer owes for the quarter.

Liens

Unpaid tax, interest or penalty may cause a lien to be placed against the employer's real estate or property.

Protest

If an employer protests liability under the unemployment compensation law or protests the tax rate assigned, the employer must file reports and pay taxes at the assigned tax rate pending an appeal of liability or the assigned tax rate. If the protest is ruled in the employer's favor an adjustment or a refund will be made.

TAX AUDITS AND REQUIRED EMPLOYER RECORDS

Audit Purpose

Field auditors regularly perform complete payroll audits of employer's books and records, using generally accepted auditing standards and procedures, covering a specified period of time during which an employer is liable for reporting under the law or is found to be liable as a result of the audit.

A comprehensive field audit program is vital to the administration of a state unemployment compensation system. A well-planned and cost effective field audit program is an efficient means of ensuring compliance with state unemployment tax laws and timely collection of taxes on an equitable basis. Two percent of active contributory employer accounts are audited annually to verify that wages have been reported correctly.

Records Required and Examined

The unemployment compensation law requires the records of an employing unit be open for inspection by DOR at any reasonable hour when the firm's business is normally conducted. The employer must maintain true and accurate work records for a period of five calendar years. If the employment records are not kept in Florida, the employer must designate a resident agent in Florida through whom such records may be obtained upon request.

Rule 60BB-2.032 (formerly 38B-2.032), Florida Administrative Code, outlines the specific information an employer is required to maintain in the payroll records. The types of records needed for an audit may include, but are not limited to, time cards, individual earnings records, check register, check stubs, canceled checks, cash disbursement journal, payroll ledger, payroll summaries, petty cash, work orders/invoices, master vendor files, general journal, general ledger, income statement, balance sheet, UCT-6s (SUTA), form 940 (FUTA), forms 941, 942, 943 (as applicable), forms W-2 and W-3, forms 1099 and 1096, Schedule C (sole proprietor), form 1065 (partnership), partnership agreement, form 1120 and all attachments (C Corporation), form 1120S and all attachments (S Corporation), corporate charter, independent contractor agreement, and chart of accounts.

If a review of an employing unit's records reveals that they do not contain the required information, a written demand for maintenance of payroll records will be made. The unemployment compensation law stipulates that an employing unit may be held liable as an employer regardless of the number of workers employed (443.1215(3), F.S.). Tax may be assessed against the employer after written notice is served. Adequate payroll records will reveal whether the employer has or has not met liability criteria for the payment of unemployment taxes. For more information regarding required records, please contact your local Department of Revenue Service Center.

TAX RATE

Regular

The method of determining varying tax rates assigned to taxpaying employers is referred to as "experience rating." Under the unemployment compensation law, an employer's experience rate is based on the employer's own employment records in relation to the experience records of all other employers.

The purpose of the experience rating provision of the Florida Unemployment Compensation Law is to keep the Unemployment Compensation Trust Fund stabilized between 3.7% and 4.7% of the taxable payrolls reported by all employers, and to insure that employers with higher unemployment benefit costs pay at a higher tax rate. Variable adjustment factors and constant adjustment factors are computed yearly. These factors are used to help compensate the trust fund for the benefits paid to eligible claimants who worked for employers whose taxes were less than the amount of benefits paid, and benefit payments which are not chargeable to any employer's account. These charges are distributed to all rated employer accounts.

Once rated, an employer's tax rate may vary each year according to employment experience. The tax rate can vary from the maximum of 5.4% (.0540) to the minimum rate of 0.10% (.0010) as mandated by law. Employers participating in an approved Short-Time Compensation Plan are subject to a rate of one percent above the current maximum rate. Even though an employer may no longer be participating in the program, all benefits charged as a result of Short-Time Compensation will be used in the tax rate computation.

Economic conditions resulting in abnormally high unemployment accompanied by high benefit charges cause a severe drain on the Unemployment Compensation Trust Fund. The effect is an increase in the adjustment factors, which in turn increases tax rates for all rated employers. Conversely, when unemployment is low, the adjustment factors decrease and tax rates for rated employers are reduced accordingly.

When an employer becomes liable for the payment of taxes, the beginning tax rate is .0270 until the employer has reported for ten or eleven quarters, depending on the quarter of the year the employer established liability. The account will then be rated by dividing the benefits charged to the account (seven quarters) by the taxable payroll on which wages were reported by the end of the quarter preceding the quarter in which the tax rate is to be computed. Once an account has completed the required quarters of reporting, it will then be considered for an experience rate at the beginning of each calendar year thereafter.

TAX RATE

The payroll used in annual rate computations may vary from seven-to-twelve calendar quarters. The tax rate is computed as follows: to obtain the variable adjustment factor, the benefit ratio is multiplied by a common multiplier, which varies from year to year. The constant adjustment factor, which also varies from year to year, is the same for all employers. The sum of the three factors (benefit ratio, variable adjustment factor, and constant adjustment factor) is the tax rate.

Employer tax rate notices are normally mailed to employers immediately prior to the tax rate effective date. A protest of the assigned tax rate must be in writing, within 20 days from the date the *Unemployment Compensation Tax Rate Notice* (UCT-20) is mailed.

An employer who has outstanding indebtedness billed prior to the four quarters immediately preceding the effective date of rating will be assigned the penalty tax rate of .0540 (5.4%) unless payment is received prior to the effective date of the tax rate. Employers are notified of the indebtedness affecting tax rate by *Unemployment Tax Delinquent Indebtedness Statement* (UCT-27).

Successor Accounts

Any individual, partnership, or corporation, which becomes an employer by succession, has the option of transferring the predecessor's tax rate or taking the initial rate of .0270 (2.7%). If the new owner becomes liable by succession and elects to transfer the predecessor's tax rate, a *Report to Determine Succession and Application for Transfer of Experience Rating Records* (form UCS-1S), must be signed and returned within 30 days from the date the notification of option is mailed to the successor or the transfer will be denied. The form must bear the signature of the owner or corporate officer. (See *Power of Attorney*.)

If the new owner is already liable, and elects to transfer the predecessor's tax rate history, Form UCS-1S must be signed, as stated above, and returned within 30 days from the date the notification of option is mailed to the successor. A tax rate will be computed based on the combined employer histories. If the form is not returned within 30 days, the transfer of records will be denied. If the successor does not elect the transfer, the new owners existing tax rate will apply.

Any successor employer requesting transfer of experience rating records of predecessor must submit payment, by certified funds, for predecessor indebtedness, if any, within 30 days of the mailing date of the notice listing the total amount due or the transfer will be denied. Also, the successor's account will be charged with any benefits paid to the individuals who were former employees of the predecessor. These charges will be used in future tax rate computations.

If the new owner acquires only a portion of the predecessor's business, the successor is entitled to the experience rating records of that particular unit if qualifying conditions are met. In order to qualify for partial transfer, the successor employer must have notified DOR of the acquisition within 90 days of the date the succession commenced, otherwise,

TAX RATE

the transfer will be denied. A partial rate transfer may be granted if Form UCS-1S is signed by both parties consenting to the rate transfer and all requested information is provided. Form UCS-1S will require the total number of predecessor employees before the transfer, the number of employees in the identifiable and segregable unit transferred, and the date the transferred unit began employment while operated by the predecessor. The partial transfer form must be returned within 30 days from the date the notification of option is mailed to the successor. If the form is determined to be untimely, the transfer will be denied.

When an employer buys an additional unit of business from another liable employer, the purchaser must submit Form DR-1 marked "AMENDED" to provide additional information concerning the purchase.

A company reporting several units of business must advise the department if any of the units are sold. The names and addresses of the new owners as well as the dates of sale will be necessary. This information may be submitted by detailed letter or on a *Report to Determine Succession and Application for Transfer of Experience Rating Records* (form UCS-1S).

Federal Certification

Every year the department certifies to the federal government the amount of taxable wages, the amount of tax paid, and whether the tax was paid timely for each employer's account. Although the employer's assigned state tax rate may be lower, this certification allows the employer to receive the maximum credit of 5.4 percent against the Federal Unemployment Tax for timely reports and payments to the state. If an employer has not reported and paid timely, the credit is limited to 90 percent of the amount which would have been allowable as a credit had the state tax been paid on time.

FOR EXAMPLE: An employer's total taxable wages for 2002 were \$100,000. The Federal Unemployment Tax based on 6.2 percent would be \$6,200 ($\$100,000 \times .0620$); however, the employer has reported and paid the state unemployment compensation tax before January 31, 2003. The employer can then claim credit for \$5,400 ($\$100,000 \times .0540$) against the Federal Unemployment Tax and would have to pay only \$800 additional tax. If the employer had not reported and paid taxes timely, the credit allowed would have been \$4,860 ($\$5,400 \times .90$) against \$6,200 owed and the additional tax due would have been \$1,340. Paying state unemployment tax timely saved the employer \$540 ($\$1,340 - \800) in Federal Unemployment Tax.

OBTAINING FORMS

- Information and forms are available on our Internet site at **www.myflorida.com/dor**.
- To receive forms by mail:
Order multiple copies of forms from our Internet site at <http://www.myflorida.com/dor/forms> or
 - Fax your form request to the DOR Distribution Center at 850-922-2208 or
 - Call the DOR Distribution Center at 850-488-8422 or
 - Mail your form request to:
DISTRIBUTION CENTER
FLORIDA DEPARTMENT OF REVENUE
168A BLOUNTSTOWN HWY
TALLAHASSEE FL 32304-3702
- To receive a fax copy of a form, call 850-922-3676 from your fax machine telephone.
- To speak with a Department of Revenue representative, call Taxpayer Services, Monday through Friday, 8 a.m. to 7 p.m., ET, at 1-800-482-8293.
- For a written response to your questions, write:
TAXPAYER SERVICES
FLORIDA DEPARTMENT OF REVENUE
1379 BLOUNTSTOWN HWY
TALLAHASSEE FL 32304-2716
- Hearing or speech impaired persons may call the TDD line at 1-800-367-8331 or 850-922-1115.
- Department of Revenue service centers host educational seminars about Florida's taxes. For a schedule of upcoming seminars,
 - Visit us online at www.myflorida.com/dor or
 - Call the service center nearest you.
- Mail your report to:
FLORIDA DEPARTMENT OF REVENUE
5050 W TENNESSEE ST
TALLAHASSEE FL 32399-0180
- For claims and benefits information, contact the Agency for Workforce Innovation at 850-921-3475.
- For appeals information, contact the Agency for Workforce Innovation at 850-921-3511.

BENEFITS

Benefits

Unemployed workers covered under the Florida Unemployment Compensation Law receive weekly benefits if eligible and fully qualified. These benefits are paid from the Florida Unemployment Compensation Trust Fund, made up of taxes received from employers subject to the law and from interest earned by the fund. Taxes paid to the state by employers are used solely for the payment of benefits to eligible unemployed workers.

If benefits are to be paid to eligible persons and withheld from ineligible persons, the employer's cooperation is important. Prompt and accurate information from employers is essential to the establishment of a claimant's right to benefits. **The Agency for Workforce Innovation (AWI) must determine the eligibility of each claim; therefore, please respond promptly to all AWI requests for information.**

It is the employer's responsibility to furnish information timely when requested. This is to the employer's advantage as it is one way to protect the tax rate. Information furnished should be complete and accurate; it should be factual, never based on hearsay or supposition.

Monetary Qualifications

An unemployed worker can qualify for benefits only if the individual has worked in covered employment and earned a minimum amount of wages in the base period.

1. The claimant's base period is the first four of the last five completed calendar quarters.
2. There must be wages in two or more quarters in the base period.
3. There must be a minimum of \$3,400 in the base period and the claimant must have 1.5 times the high quarter wages in the base period.
4. The weekly benefit amount is 1/26th of the high quarter wages (the minimum is \$32 and the maximum is \$275).
5. The maximum payable on a claim is 25% of the total wages in the base period, not to exceed \$7,150.

Qualifying for Benefits

To be eligible for benefits, the worker must, for each week benefits are claimed:

1. Be totally or partially unemployed.
2. File an initial claim for benefits and report as directed to file for subsequent weeks.
3. Have the necessary wage credits for work in covered employment during the base period.

BENEFITS

4. Have worked and earned three times the current weekly benefit amount since the filing date of the prior claim, providing the individual received benefits on the prior claim.
5. Be able to work and available for work, and be registered for and seeking work.
6. Participate in reemployment services, such as job search assistance services, whenever the individual has been determined to be likely to exhaust regular benefits and to be in need of reemployment services.
7. Serve a waiting week, for which no benefits are payable, after filing an initial claim.

Disqualification

A claimant may be disqualified because of the reasons for separation from work. The facts pertaining to the circumstances causing the separation must be clearly established. The following may disqualify an individual from receiving benefits:

1. Voluntarily quit without good cause attributable to the employing unit.
2. Suspended or discharged for misconduct connected with work. [Misconduct (as defined in Chapter 443, F.S.) includes, but is not limited to, conduct showing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of the employee, or carelessness or negligence of such a degree or recurrence as to manifest guilt, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer.]
3. Suspended or discharged for misconduct connected with work consisting of drug use as evidenced by a positive, confirmed drug test.
4. Failed without good cause either to apply for available suitable work or to accept suitable work or to return to customary self-employment when so directed by AWI.
5. Unemployed due to a labor dispute (which may involve a strike or lockout) in active progress which exists at the place of employment; and the individual is participating in or financing or directly interested in such labor dispute. In some cases, unemployment due to a lockout may not be disqualifying.
6. Furnished false information or fraudulent representation for the purpose of obtaining benefits such as not reporting earnings or job refusals. Willful misrepresentation is also cause for fine and imprisonment.
7. Receiving a retirement income from a base period employer.
8. Receiving or seeking unemployment benefits under an unemployment compensation law of another state or the United States, unless the appropriate agency of such state or of the United States finally determines that the individual is not entitled to such unemployment benefits.

BENEFITS

9. Alien, unless such alien has been lawfully admitted for permanent residence or otherwise is permanently residing in the United States under appearance of law (including an alien who is lawfully present in the United States as a result of the provisions of the Immigration and Nationality Act).
10. Terminated from employment for violation of any criminal law punishable by imprisonment or for any dishonest act in connection with the individual's employment.

Audit of Claimant's Wages

All claimants are audited each quarter by using the most current employer wage records. A computer cross-match, by social security number, of benefits paid and wages reported is performed quarterly. If the computer identifies a match, form UCO-2 (*Request for Breakdown of Wages Paid*) is generated and sent to the employer(s) reporting wages for the same period in which benefits were being paid. Employers who respond **immediately** are, in every case, helping to prevent improper payments and abuse of the unemployment compensation system. When it is determined that a claimant has been improperly paid, the experience rating account will be credited if the employer is a base period employer on the claim. If the improper payment was the result of fraud, the case may be referred to the State Attorney's Office for prosecution.

New Hire Program

Florida Statutes 409.2576, provides for the accelerated reporting of new hires and rehires by employers liable under the unemployment compensation law. This program is designed to aid in locating non-custodial parents who are delinquent in child support payments and detecting potential overpayment of benefits in the Unemployment Compensation Program. The New Hire Program's success in preventing and accurately determining fraud is greatly dependent upon employer cooperation in submitting information on newly hired and rehired employees. For information on New Hire Reporting, call toll free, 1-888-854-4791. (The toll free Fax number for New Hire Reporting is 1-888-854-4762.) Or visit the New Hire web site at www.fl-newhire.com.

Claims for Benefits

An unemployed worker may receive information for filing a claim for benefits at any local One-Stop Center operating under your area's Regional Workforce Board, or by visiting the web site for the Agency for Workforce Innovation at **www.floridajobs.org/**. A *Determination Notice of Unemployment Compensation Claim Filed* (form UCB-412) is mailed to all base period employers, and also to any of the claimant's most recent employers who are outside of the base period. If such notice is received and the employer has information that may affect the claimant's eligibility for benefits, a reply should be submitted promptly, in order to avoid any improper payment of benefits to the claimant. The employer should check the appropriate block(s) in items A through G and furnish any requested information. When the employer has paid the claimant wages during the base period, the form UCB-412 will show not only the claimant's name and social security number, but will also provide the claimant's available credits (total

BENEFITS

benefits payable on the claim), and the percentage of the benefits potentially chargeable to the employer's account.

It is of the utmost importance to the employer to state in detail on form UCB-412 the reason or reasons for the worker's separation from the job (except for lack of work). The employer's statement should contain all important facts such as exact dates, times, and places in which incidents occurred; names of witnesses, and reference to such agreements as union contracts, commission agreements, medical reports, and any other pertinent documents. In the absence of separation information from an individual's employer or employers, the individual's eligibility will be based on the claimant's statement or any other available information.

After a determination on the claimant's eligibility for benefits has been issued, the claimant or the employer may appeal and request a formal hearing before an appeals referee. The request must be made within 20 days from the date of the mailing of the determination.

Form UCB-412 and determinations on claims can be mailed to addresses other than the employer's main mailing address. They can be mailed to the locations of various employer units within the state or regional offices to insure a reply within the allotted ten days. To have this system work properly, the wage report must group the employees in the appropriate unit code. To submit a change to an existing mailing address for an established unit of your business, please submit a written request to Agency for Workforce Innovation (AWI), Unemployment Compensation Claims and Benefits, P.O. Drawer 5250, Tallahassee, Florida 32314-5250. Please include your unemployment tax account number, the old unit address and the new address that you want the agency to use. Please insure that the request is signed by the appropriate authority for your business.

How Benefits Are Charged

Unemployment compensation benefits paid to eligible claimants are paid from the UC Trust Fund and are charged to employers on a percentage basis. The percentage chargeable is based on the amount of wages each employer paid the worker as compared to the worker's total wages for insured work during the base period of the claim. For example, if there were only two base period employers, each having paid \$3,000 in the base period, each would be chargeable with 50 percent of the benefits paid to the claimant.

Benefit payments made to any eligible claimant shall be charged to the taxpaying employer's experience rating record when the employer paid the individual wages of \$100 or more within the base period of the claim. A taxpaying employer who pays less than \$100 within the base period will not be charged.

Where it is determined that an individual was separated under disqualifying conditions, has refused suitable work, or when it can be established that the claimant received benefits improperly, benefits paid will not be charged to the account of the taxpaying

BENEFITS

employer; provided that the base period taxpaying employer has furnished this information to Unemployment Compensation Claims and Benefits of AWI. Benefits shall not be charged to a taxpaying employer's account if an individual has been discharged for unsatisfactory performance during an established 90-day initial employment probationary period providing, (1) the employee was informed of the probationary period within the first seven work days, and (2) the employer replied to the notice (UCB-412) within the ten-day time limit.

Employers may also receive form UCB-9 requesting wage information for selected quarters within the base period. This form is initiated by a claimant's request for reconsideration when there is a disagreement over the amount of reported or unreported wages. The employer must respond to the request even though the wages have already been reported on the *Employer's Quarterly Report* (UCT-6) or the claimant has been disqualified. Wage histories can vary greatly among employers, so please complete the UCB-9 form and return it promptly. **REMEMBER: Wages must be reported for the period in which they were paid, not earned.**

A reimbursing employer is required to pay dollar-for-dollar for the percentage of benefits paid to eligible former employees. The percentage of benefit payments will be billed to the reimbursing employer on a quarterly basis. The law makes no provision to non-charge the account of a reimbursing employer.

In the event an individual, who performed services for a reimbursing employer, is disqualified, any benefits already paid will be billed and the reimbursing employer will be required to reimburse the full amount. Recoupment of benefits improperly paid will result in a refund or credit to the reimbursing employer.

Statement of Benefit Charges

Taxpaying employers may be mailed a *Notice of Benefits Paid* (form UCT-1). The UCT-1, which is mailed quarterly, lists benefits paid to former workers only if the benefits paid are to be charged to the employer's account. If the employer's account is relieved of charges a credit amount will be reflected on the UCT-1. If there are questions about the charges, call the Claims Information Center at 850-921-3475. Any protest of the charges may be mailed to AWI, Unemployment Compensation, UCT-1 Unit, P.O. Drawer 5250, Tallahassee, Florida 32314-5250.

Employers should examine the UCT-1 carefully and notify AWI of any errors within 20 days. This notice cannot be used as a basis for protesting a claimant's eligibility to receive benefits for any reason that has already been decided by the mailing of a determination, decision of an appeals referee, or order of the Unemployment Appeals Commission. If an appeal is pending on a claim at the time the UCT-1 is received, an adjustment to the charge that may be required by the appellate authority will be posted to the account during the following calendar quarter. It is not necessary to further protest the charge. See *Claims for Benefits*.

Reimbursement Invoice

Reimbursing employers may be mailed an *Unemployment Compensation Reimbursement Invoice* (form UCT-29). The UCT-29 lists the benefit amounts paid to former employees. The total amount shown on the invoice must be paid.

Employers should examine the UCT-29 carefully and notify AWI of any errors within 20 days. This notice can be used as a basis for protesting a claimant's eligibility to receive benefits if the basis for the protest has not previously been decided or is not currently under appeal. However, such protest would not relieve the employer of the requirement to reimburse for the benefit charges appearing on the invoice.

Short-Time Compensation

Short-Time Compensation is a voluntary program that permits prorated unemployment compensation benefits to employees laid off for a portion of their workweek. To participate, employers must have a ten-to-forty percent reduction in their work force and have their plan/contract approved by the Deputy Director. Additional information concerning Short-Time Compensation and the application to enroll your business in the program can be obtained by visiting <http://www.floridajobs.org/unemployment/employer/STC.htm>. For complete information, please contact the Short-Time Compensation Coordinator, AWI, Unemployment Compensation Claims and Benefits, P.O. Drawer 5350, Tallahassee, Florida 32314-5350; telephone 850-921-3877, or fax 850-921-3427.

Labor Disputes

When a strike, lockout or other labor dispute occurs at a place of business, the employer must notify AWI as soon as possible. An AWI investigator will prepare a report on the number and classification of workers involved and a general overview of the issues disputed. AWI will request that the employer furnish a list of all affected employees for the purpose of screening for possible claims for benefits by these employees.

AWI is a neutral party in such disputes. One-Stop Centers will not refer workers to a business while there is an ongoing dispute. Unemployment compensation benefits will not be paid to those employees or class of employees directly involved in the labor dispute.

To report a labor dispute in active progress at your place of business you can contact AWI by addressing your correspondence to AWI: Labor Dispute Unit, P.O. Drawer 5250, Tallahassee, FL, 32314-5250 or calling 1-866-778-7356 or (850) 921-3475.

APPEALS

The unemployment compensation law provides an opportunity for a fair and impartial hearing to any party who disagrees with a benefit determination issued by AWI or a tax determination issued by DOR, including:

1. The qualification and eligibility of former workers who file claims for benefits.
2. That an employing unit is a liable employer for unemployment tax purposes.
3. The coverage of specific employees or classes of employees.
4. The employer's experience rating (tax rate) computation.
5. Charges to an employment record for benefits paid to former employees.
6. Reimbursement requirements for certain governmental and nonprofit organizations.

Any appeal must be filed within **twenty (20) calendar days** from the mailing date of the determination. If the twentieth day falls on a Saturday, Sunday, or legal holiday, the appeal may be filed on the next day that is not a Saturday, Sunday or legal holiday.

When filing an appeal, include the specific reason for appealing and all pertinent facts and reasons why a different ruling should have been made. An employer that was previously a party to a benefit claim determination and the associated chargeability to its employment record cannot later dispute the payment of benefits by protesting the annual tax rate.

Promptly examine all unemployment compensation correspondence when received. Carefully review the time limit for submitting information and filing appeals. If an appeal is not filed timely, the Appeals Referee or Special Deputy will not have jurisdiction and the case will be dismissed. The "Appeal Information" pamphlet, AWI Form UCA Bulletin 6, explains the appeals process for benefit and chargeability appeals.

EMPLOYER'S CHECKLIST

- ☐ Report all required data. Accurate social security numbers and gross wages paid must be reported for each employee. Your completed tax returns are due by the specific statutory due date (January 31, April 30, July 31, and October 31). If paying by electronic funds transfer, your funds must be transmitted before 5:00 p.m., ET, on the business day prior to the payment due date. Remember, your account is debited on the business day following your transmittal.
- ☐ File all reports on time and respond to correspondence within designated time periods.
- ☐ Clearly delegate responsibility in your organization for the timely response to correspondence regarding unemployment tax or claims.
- ☐ Make sure you notify AWI of the correct mailing address to send correspondence concerning claims for benefits; and DOR of the correct mailing address of your unemployment tax account. You may specify separate addresses for the mailing of claims notices.
- ☐ Contact your local One-Stop Career Center for advice and assistance before any layoffs are effected.
- ☐ Prior to filing your *Employer's Quarterly Report* on an alternative form, make sure your format has been approved.
- ☐ Attend all Appeal hearings. The outcome may affect your tax rate.
- ☐ Notify AWI to report suspected fraud or abuse of Florida's Unemployment Compensation Program. Call the fraud hotline at 1-800-342-9909.
- ☐ Notify your local DOR Service Center office as soon as possible of any changes in ownership, location, or type of business activity.
- ☐ Your unemployment tax account number (a seven-digit number) should be included on all reports, checks, and correspondence. Correspondence concerning a former employee should include the employee's social security number in addition to your account number.
- ☐ For unemployment tax assistance, call Taxpayer Services at 1-800-482-8293 or visit our Internet site at www.myflorida.com/dor

GLOSSARY

AWI - Agency for Workforce Innovation

Benefits - Unemployment compensation payments to eligible claimants.

Cafeteria Plan Exemption - Cafeteria plans always give the employee the option to receive cash as a benefit. When the cash option is chosen the payments are considered wages and are subject to unemployment tax.

Calendar Quarter - A period of three consecutive months ending March 31, June 30, September 30, and December 31 of any year.

Casual Labor - Work performed that is not in the course of the employer's regular trade or business and which is occasional, incidental, or irregular.

Claimant - One who has applied for unemployment compensation benefits.

Common Paymaster - Related corporations with employees performing services simultaneously for the related corporations may allow one of the related corporations to report and pay unemployment tax rather than each corporation reporting separately.

Department - Florida Department of Revenue (DOR).

Determination - A decision made by DOR regarding an employing unit's liability, tax rate, assessment of taxes, or a decision made by AWI regarding a claimant's monetary or non-monetary eligibility for benefits.

Electronic Funds Transfer (EFT) - The transfer of funds between accounts by electronic means. When a payment is made using EFT, funds are electronically transferred from the employer's bank to the Florida Department of Revenue's bank.

Electronic Reporting - The electronic transfer of tax report information to the Florida Department of Revenue. The electronic report replaces the paper report.

Employee Leasing Company - An employing unit which maintains a valid and active license under Chapter 468, F.S. (Also known as Professional Employer Organization.)

Employer - An employing unit that has met the criteria of liability for payment of unemployment tax.

Employing Unit - Any person, partnership, corporation, association, trust, estate, Indian tribe or trustee or receiver that has employed any person at any time.

Employment - Any service performed by an individual for an employing unit.

GLOSSARY

Excess Wages - Wages paid in excess of \$7,000 per worker per calendar year. Excess wages are not subject to unemployment tax.

Gross Wages - All wages paid. See *Wages*.

Independent contractor - One who is not subject to the will and control of the employer. The employer does not have the right to control or direct the manner or method of performance, although the results to be accomplished are controlled. Independent contractors hold themselves out to the public as such. Generally, they furnish materials as well as labor and use their own tools in the performance of the work. Services performed by independent contractors cannot be summarily terminated without recourse. A contract for labor only will normally be considered a contract of employment. How the worker is treated determines employment status, not a written contract.

Liable - Responsible for payment of unemployment tax.

Payrolling - Payrolling is an agreement between employers whereby payrolls for two or more employers are consolidated for tax purposes with one employer reporting the employees of the other(s). Payrolling is not permitted; each employer must file an *Application to Collect and/or Report Tax in Florida* (DR-1) with DOR and report its own employees.

Predecessor - The prior owner of a business unit.

Protest - A request for review of any determination made with respect to an employer's liability status, tax rate, assessment of taxes, or other action affecting any employer's account.

Redetermination - A written notice of review to a determination on a claim for benefits issued by AWI or to a determination involving an employer's liability, tax rate, or other tax matters issued by DOR. A redetermination is appealable.

Remuneration - Payment for goods produced or services rendered.

Successor, Partial - An employing unit which acquires an identifiable and segregable portion of the organization, trade, or business of another employer, provided the acquired part or unit would have been an employer subject to the law.

Successor, Total - An employing unit which has acquired the organization, trade or business, or substantially all the assets of an employer.

GLOSSARY

Tax Rate - The percentage used to compute unemployment tax.

Initial tax rate - 2.7% (.0270)

Standard tax rate - 5.4% (.0540)

Minimum tax rate - .1% (.0010)

Maximum tax rate - 5.4% (.0540)

Taxable Wage Base - Wages of \$7000 per worker per year.

Taxable Wages - Wages subject to unemployment tax under the law (up to and including \$7,000).

Total Wages - All wages paid. See *Wages*.

Wages - Remuneration for employment, including commissions, bonuses, back pay awards, and the cash value of all remuneration paid in any medium other than cash. The cash value of meals and lodging will be exempt if it is included as a condition of employment for the convenience of the employer. (Refer to Employer-Employee Relationships, Sales personnel portion, for the exception of certain commissions being considered wages.)

Sick and accident disability payments paid by an employing unit to an employee in the six calendar months after the calendar month the employee stopped working are considered wages. Payments made under a workers' compensation law are not considered wages.

Tips are covered wages if received while performing services that constitute employment and are included in a written statement furnished to the employer.

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